

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed August 5, 2005. At the time of the Office Action, Claims 1-27 were pending in the Application. Applicant amends Claims 1, 5-7, 9, 13-15, 17, 21-23, and 26 and cancels Claims 4, 12, and 20 without prejudice or disclaimer. Applicant's amendments and cancellations have been done to advance prosecution in this case and not to overcome prior art. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Specification

The Examiner objects to the disclosure and requests that the Applicant update the Related Applications' paragraph. *Office Action*, p. 2. Applicant has complied with this request, and respectfully requests the Examiner to withdraw this objection.

Section 112 Rejection

The Examiner rejects Claims 5, 13, and 21 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. *Office Action*, p. 2. While Applicant respectfully does not agree with or acquiesce to the Examiner's comments regarding the interpretation of Claims 5, 13, and 21, Applicant amends Claims 5, 13, and 21 to address the Examiner's concern. Accordingly, Applicant respectfully requests reconsideration and allowance of Claims 5, 13, and 21.

Section 102 Rejection

The Examiner rejects Claim 26 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,628,641 issued to Strawczynski et al. (hereinafter "*Strawczynski*"). Applicant respectfully requests reconsideration of this rejection of the above-mentioned claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. §2131.

Applicant respectfully submits that *Strawczynski* does not disclose, teach, or suggest, either expressly or inherently, each and every element of Claim 26. For example, *Strawczynski* does not disclose, teach, or suggest “the logic operable to drop a set of remaining frames for a packet identified by a receiving device as having a frame unsuccessfully received after an allowed number of retransmissions, wherein the allowed number of retransmissions is based on the position of the frame in a set of related frames.” Because *Strawczynski* fails to teach at least this limitation, Applicant respectfully submits that *Strawczynski* cannot anticipate Claim 26 under 35 U.S.C. §102(e). Thus, Applicant respectfully requests reconsideration and allowance of independent Claim 26.

Section 103 Rejections

The Examiner rejects Claims 1, 3, 8-9, 11, 16-17, 19, and 24 under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 6,519,223 issued to Wagner et al. (hereinafter “*Wagner*”) in view of *Strawczynski*. To defeat a patent under 35 U.S.C. §103(a), the claimed combination must be obvious. *Kimberly-Clark Corp. v. Johnson & Johnson*, 745 F.2d 1437, 223 U.S.P.Q. 603 (Fed. Cir. 1984). Therefore, it is essential to view the invention as a whole, taking each element into account as well as the advantages, properties, utilities, and results of the invention. *In re Chupp*, 816 F.2d 643, 2 U.S.P.Q.2d 1437 (Fed. Cir. 1987).

Applicant respectfully submits that *Wagner* in view of *Strawczynski* fails to disclose, teach, or suggest each limitation recited in Applicant’s Claim 1. The combination of *Wagner* and *Strawczynski* does not disclose, teach, or suggest “determining a position of the frame in a set of related frames for the packet, wherein a sequence number corresponds to the position of the frame; determining the allowed number of retransmissions for the frame based on the position of the frame in the set of related frames.” Because *Wagner* and *Strawczynski* fail to disclose, teach, or suggest at least this limitation, Applicant respectfully requests reconsideration and allowance of independent Claim 1 along with its dependents.

Independent Claims 9 and 17 each recite certain limitations that, for reasons substantially similar to those discussed with reference to independent Claim 1, *Wagner* and *Strawczynski* do not disclose, teach, or suggest. Therefore, Applicant respectfully requests reconsideration and allowance of independent Claims 9 and 17 together with their dependents.

The Examiner rejects Claims 2, 10, 18, and 27 under 35 U.S.C. §103(a), as being unpatentable over *Wagner* in view of *Strawczynski* as applied to Claims 1, 9, and 17, and further in view of U.S. Patent No. 6,330,435 issued to Lazraq et al. (hereinafter "*Lazraq*").

First, Claims 2, 10, and 18 incorporate limitations of their respective independent claims, which Applicant has shown above to be allowable. For at least this reason, Claims 2, 10, and 18 are allowable over the prior art.

Second, *Wagner* in view of *Strawczynski* fails to disclose, teach, or suggest "determining a position of the frame in a set of related frames for the packet, wherein a sequence number corresponds to the position of the frame; determining the allowed number of retransmissions for the frame based on the position of the frame in the set of related frames" as recited in Claim 1. These deficiencies are not cured by rejecting the claims in further view of *Lazraq*. Accordingly, Applicant respectfully requests reconsideration and allowance of Claims 2 because it depends from Claim 1, which has shown to be allowable.

Similarly, independent Claims 9 and 17 incorporate limitations that *Wagner*, *Strawczynski*, and *Lazraq* fail to disclose, teach or suggest as discussed with reference to Claim 1. Therefore, Applicant respectfully requests reconsideration and allowance of Claim 10 (which depends from Claim 9) and Claim 18 (which depends from Claim 17).

Additionally, *Wagner*, *Strawczynski*, and *Lazraq* do not disclose, teach, or suggest each limitation recited in independent Claim 27. For example, the combination does not disclose, teach, or suggest a signal including "an indication of radio frames requiring retransmission; an indication of dropped radio frames; and an identifier of a packet to which the dropped radio frames belong." Accordingly, Applicant respectfully requests reconsideration and allowance of Claim 27.

The Examiner rejects Claims 4, 6-7, 12, 14-15, 20, 22-23, and 25 under 35 U.S.C. §103(a), as being unpatentable over *Wagner* in view of *Strawczynski* as applied to Claims 1, 9, and 17, and further in view of U.S. Patent No. 6,088,342 issued to Cheng et al. (hereinafter "*Cheng*") and U.S. Patent No. 6,532,211 issued to Rathonyi et al. (hereinafter "*Rathonyi*").

Applicant amends Claim 1 to include the limitations of canceled Claim 4, amends Claim 9 to include the limitations of canceled Claim 12, and amends Claim 17 to include the limitations of canceled Claim 20. The combination of *Wagner*, *Strawczynski*, *Cheng*, and *Rathonyi* fails to disclose, teach, or suggest each and every element of Applicant's amended

Claim 1. For example, the combination does not disclose, teach, or suggest “determining a position of the frame in a set of related frames for the packet, wherein a sequence number corresponds to the position of the frame; determining the allowed number of retransmissions for the frame based on the position of the frame in the set of related frames.” Because the combination fails to disclose, teach, or suggest at least these limitations, Applicant respectfully submits that Claim 1 is not obvious from the combination. Thus, Applicant respectfully requests reconsideration and allowance of independent Claim 1 and its dependents.

Independent Claims 9, 17, and 25 each recite certain limitations that, for reasons substantially similar to those discussed with reference to independent Claim 1, are not disclosed, taught, or suggested. Therefore, Applicant respectfully requests reconsideration and allowance of independent Claims 9, 17, and 25 together with their dependents.

Allowable Subject Matter

Applicant notes with appreciation the Examiner’s allowance of Claims 5, 13, and 21. The Examiner indicates that the subject matter of these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. *Office Action*, p. 8. As discussed above, Applicant believes that independent Claim 1 (from which Claim 5 depends), independent Claim 9 (from which Claim 13 depends), and independent Claim 17 (from which Claim 21 depends) are allowable. Therefore, Applicant has kept Claims 5, 13, and 21 in their dependent form and respectfully submits that Claims 5, 13, and 21 are allowable. Accordingly, Applicant respectfully requests reconsideration and allowance of Claims 5, 13, and 21. Furthermore, Applicant respectfully does not agree with or acquiesce to the Examiner’s comments regarding the allowable subject matter.

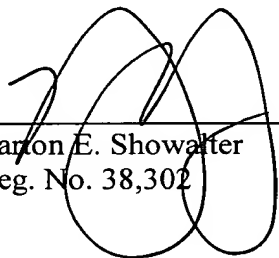
CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant believes no fee is due. However, if this is not correct, the Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact its attorney, Barton E. Showalter, at (214) 953-6509.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicant



Barton E. Showalter
Reg. No. 38,302

Date: Nov. 7, 2005

Customer No. **05073**